IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1598 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MOHAMMED MAJID BACHUBHAI MALEK - Applicant(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR MAHESH B BARIYA for Applicant(s) : 1,
Mr. KT Dave, Addl.PUBLIC PROSECUTOR for Respondent(s) : 1,
None for Respondent(s) : 2 - 4.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 07/09/2007

ORAL JUDGMENT

Rule. Heard Shri Bariya, learned advocate appearing for the petitioner and Shri KT Dave, learned APP appearing on behalf of the respondents.

2. By way of this petition under Article 226 of the Constitution of India the petitioner has prayed for an appropriate writ, direction or order directing the respondents No. 1 to 2 to take appropriate action against Police Sub-Inspector, Khilleri and Constable, Yogendrasinh for ill-treating and beating the petitioner when the petitioner had approached the concerned P.S.I., with surety as per the anticipatory bail granted by the learned Trial Court. It is also prayed for an appropriate writ, direction or order directing the Police Inspector, Dani Limda to register the complaint submitted by the petitioner as 'FIR' against the aforesaid two officers.

3. It is alleged in the petition that the petitioner was granted anticipatory bail by the learned City & Sessions Judge, Ahmedabad, in Misc. Criminal Application No. 1945 of 2007 by order dated 8.6.2007 and when the petitioner approached the aforesaid P.S.I., of Maninagar

police station along with surety and bail bond the PSI refused to arrest and release the petitioner; abused the petitioner and his surety; he has told them that he was not ready to do anything; and demanded Rs. 10,000 from the petitioner in the Police Station. It is further alleged in the petition as well as in the complaint that the petitioner was again threatened, abused and beaten by the aforesaid two persons and they again demanded Rs. 10,000 from the petitioner and the entire sequence has been narrated in the petition as well as in the complaint. It is alleged in the petition that the petitioner was beaten and he had to take medical treatment at V.S. Hospital and Medical Certificate/Injury Certificate is annexed with the petition. It is submitted that the petitioner has given complaint to the Dani Limda police station against the aforesaid PSI and the Constable for registering an FIR however the concerned police officer has not taken any action against the said PSI and the Constable. It is

further submitted that the petitioner has also approached the Commissioner of Police with the aforesaid complaint but no action has been taken either by the Commissioner of Police, Ahmedabad City and/or any other authority. In these circumstances the petitioner has approached this Court for the aforesaid relief.

4. Shri KT Dave, learned APP appearing on behalf of the respondents, more particularly respondent No.2, Commissioner of Police, Ahmedabad City has submitted that let the petitioner approach the Commissioner of Police, Ahmedabad City for the purpose of recording his statement and as soon as his statement is recorded the same will be registered as 'FIR' and the same will be investigated into by an officer not below the rank of Deputy Commissioner of Police. Mr. Dave has further submitted that apart from registering it as 'FIR' and carrying out further investigation, departmental enquiry can also be initiated against the erring officers

and the same will also be considered by the Commissioner of Police, Ahmedabad City. At this stage, Shri KT Dave has submitted that instead of approaching and/or appearing before the Commissioner of Police, Ahmedabad City, let the petitioner approach and/or appear before Deputy Commissioner of Police, Zone-VI, Ahmedabad, for the purpose of recording his statement on 8th September 2007 between 11.00 AM to 2.00 PM, and as soon as statement is recorded the same will be registered as 'FIR' and investigation will be carried out immediately. Let the petitioner appear before the D.C.P., Zone-VI, tomorrow for the purpose of recording his statement which will be termed as 'complaint' so that the same can be registered as 'FIR' against the erring officers. The concerned Deputy Commissioner of Police, Zone-VI, Ahmedabad, shall investigate into the said FIR and complete investigation as early as possible without any further delay.

5. Rule is made absolute to the aforesaid extent. Direct service is permitted. Shri KT Dave, learned APP to communicate this order to the concerned Officer today itself without even waiting for this order.

[M.R. Shah, J.]

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